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**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

MLW MEDIA LLC,	)	CASE NO. 5:22-cv-00179-EJD
	)	
Plaintiff,	)	<b>DECLARATION OF JASON S.</b>
	)	<b>TAKENOUCHI IN SUPPORT OF</b>
v.	)	<b>PLAINTIFF'S MOTION TO SHORTEN</b>
	)	<b>TIME FOR THE INITIAL CASE</b>
WORLD WRESTLING	)	<b>MANAGEMENT CONFERENCE</b>
ENTERTAINMENT, INC.,	)	
	)	
Defendant.	)	
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DECLARATION OF JASON S. TAKENOUCHI IN SUPPORT OF PLAINTIFF'S MOTION TO  
SHORTEN TIME FOR THE INITIAL CASE MANAGEMENT CONFERENCE  
Case No. 5:22-cv-00179-EJD

1 I, **JASON S. TAKENOUCHI**, declare as follows:

2 1. I am a member of the Bar of the State of California and a partner with the law firm  
3 Kasowitz Benson Torres LLP, counsel for Plaintiff MLW Media LLC (“MLW”). I submit this  
4 declaration in accordance with Northern District of California Local Rules 6-1, 6-3, 7-1(a)(2), and  
5 7-5.

6 2. I have personal knowledge of all facts stated in this declaration, and if called to testify,  
7 I could and would testify competently thereto.

8 3. No stipulation could be obtained with regard to MLW’s Motion to Shorten Time For  
9 The Initial Case Management Conference, as Defendant World Wrestling Entertainment, Inc.  
10 (“WWE”) rejected MLW’s proposal of an earlier date for the Initial Case Management Conference.

11 4. MLW seeks to reschedule the Initial Case Management Conference to September 29,  
12 2022 – the same date as the hearing on WWE’s to dismiss – to avoid the improper unilateral stay of  
13 discovery imposed by WWE, promote judicial economy and ensure the just, speedy, and  
14 inexpensive determination of the action.

15 5. Absent an order to reschedule the Initial Case Management Conference, MLW will  
16 suffer substantial harm and prejudice by WWE’s stay of discovery, which will improperly bar the  
17 parties from commencing discovery until more than four months after WWE’s motion to dismiss  
18 was fully briefed.

19 6. On January 12, 2022, the Court entered an Order Setting Initial Case Management  
20 Conference and ADR Deadlines, which set the Initial Case Management Conference for April 12,  
21 2022.

22 7. In a January 28, 2022 text-only docket entry, the Court reset the Initial Case  
23 Management Conference for April 21, 2022.

1           8. On March 3, 2022, I emailed WWE's counsel, Christopher Finnerty, to discuss a  
2 briefing schedule for WWE's forthcoming motion to dismiss.

3           9. Mr. Finnerty responded on March 6, 2022 with a proposed briefing schedule, and a  
4 request that the parties continue the conference required by Federal Rule of Civil Procedure 26(f)  
5 ("Rule 26(f)") until after the Court's ruling on the motion to dismiss, on a date of the Court's  
6 choosing.

7           10. On March 8, 2022, I had a brief phone call with Mr. Finnerty to discuss his proposal,  
8 during which I informed him that MLW would not agree to postpone the Rule 26(f) conference  
9 until after the Court's ruling, as this would effectively stay discovery for several months.  
10

11           11. In response, Mr. Finnerty indicated that if MLW did not agree to continue the Rule  
12 26(f) conference, WWE would view the phone call as a meet and confer for the purpose of filing a  
13 motion to stay discovery.

14           12. On March 14, 2022, WWE attorney Derek Kelley informed MLW's counsel by  
15 email that WWE intended to file a motion to dismiss and a motion to stay discovery on the  
16 following day, March 15, and that WWE planned to reserve April 21 for a hearing date on its  
17 motion to stay.  
18

19           13. On March 15, 2022, WWE filed a motion to dismiss with a hearing date of  
20 September 29, 2022, but did not file a motion to stay discovery.

21           14. On March 16, 2022, Mr. Kelley informed MLW's counsel by email that WWE  
22 planned to move to stay discovery on the following day, March 17, and would ask the Court to hear  
23 the motion on April 21.  
24

25           15. WWE did not file a motion to stay discovery on March 17 or thereafter.

26           16. MLW's counsel was not a party to WWE's communications, if any, with the Court  
27

1 regarding the scheduling of WWE's motion to dismiss or its anticipated motion to stay discovery.

2 17. On March 24, 2022, the Court continued the Initial Case Management Conference to  
3 October 27, 2022.

4 18. By an email sent on May 5, 2022, MLW's counsel asked WWE to participate in a  
5 Rule 26(f) conference within 14 days, consistent with Rule 26(f)'s requirement that the parties meet  
6 and confer as soon as practicable.

7 19. Mr. Finnerty responded on May 9, 2022, refusing to participate in a Rule 26(f)  
8 conference until after the Court heard oral argument on WWE's motion to dismiss, and asserting  
9 that it would be impracticable for the parties to meet before then.  
10

11 20. On May 11, 2022, MLW's counsel advised Mr. Finnerty by email that MLW would  
12 move to compel WWE's compliance with Rule 26(f) if WWE maintained its position to refuse to  
13 meet and confer, and requested that the parties meet and confer to discuss this forthcoming motion.  
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15 21. WWE responded on May 12, claiming that October 6, 2022 was "the most  
16 'practical' date to conduct the conference, as both parties will have a better sense of what claims, if  
17 any, will be moving forward."

18 22. The parties met and conferred on May 20, 2022. MLW's counsel, Christine A.  
19 Montenegro, asked Mr. Finnerty what his basis was for concluding that the parties would have a  
20 better sense of what claims would be moving forward on October 6, 2022, given that the oral  
21 argument on WWE's motion to dismiss is scheduled to occur just one week prior, on September 29,  
22 2022. Mr. Finnerty stated that he did not have a specific reason, but referred Ms. Montenegro back  
23 to his prior emails.  
24

25 23. During this meet and confer, WWE refused to participate in a Rule 26(f) conference  
26 before October 2022 and the parties did not reach a resolution.

1           24. On May 24, 2022, MLW's counsel, Nicholas A. Rendino, spoke with Courtroom  
2 Deputy Robinson about scheduling MLW's motion to compel. No date was available until after the  
3 hearing on WWE's motion to dismiss. The Court thus suggested that MLW's counsel reach out to  
4 WWE's counsel to see whether WWE would agree to stipulate to conduct the Case Management  
5 Conference on September 29, 2022, the same day as the hearing on WWE's motion to dismiss.

6           25. On May 24, 2022, Ms. Montenegro asked Mr. Finnerty if WWE would consent to  
7 moving the Case Management Conference from October 6, 2022 to September 29, 2022.

8           26. On May 27, 2022, Mr. Finnerty responded that WWE would not consent to re-  
9 scheduling the Case Management Conference.

10           27. MLW's request to reschedule the Initial Case Management Conference to September  
11 29, 2022, would shift the parties' deadlines as follows:

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- 13           a. September 8, 2022 – Last day for Parties to (1) Meet and Confer re: initial
- 14 disclosures, early settlement, ADR process selection, and discovery plan; and
- 15 (2) file ADR Certification signed by Parties and Counsel
- 16           b. September 15, 2022 – Last day for Parties to File Stipulation/Motion for
- 17 Order Changing Time re Initial Case Management Conference
- 18           c. September 19, 2022 – Last day for Parties to file Joint Case Management
- 19 Statement, pursuant to the Court's Standing Order for Civil Cases IV(B)
- 20           d. September 22, 2022 – Last day for Parties to file Rule 26(f) Report and
- 21 complete Initial Disclosures or state objection in Rule 26(f) Report
- 22           e. September 22, 2022 – Last day for Parties to File and Serve Administrative
- 23 Request to Appear Telephonically at Initial Case Management Conference
- 24           f. September 29 - Initial Case Management Conference
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1 I declare under penalty of perjury under the laws of the United States that the foregoing is  
2 true and correct and that this declaration was executed on June 24, 2022.

3 Dated: June 24, 2022

/s/ Jason S. Takenouchi

4 Jason S. Takenouchi  
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